

§ 54.12

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person prior to the making of an application of service under the regulations by the principal person. An application or a request for service may be rejected or the benefits of the service may be otherwise denied to, or withdrawn from, any person who operates an establishment for which he has made application for service if, with the knowledge of such operator, any other person conducting any operations in such establishment has committed any of the offenses specified in paragraphs (a)(1) (i) through (x) of this section after such application was made. Moreover, an application or a request for service made in the name of a person otherwise eligible for service under the regulations may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, such a person (A) in case the service is or would be performed at an establishment operated (1) by a corporation, partnership, or other person from whom the benefits of the service are currently being withheld under this paragraph, or (2) by a corporation, partnership, or other person having an officer, director, partner, or substantial investor from whom the benefits of the service are currently being withheld and who has any authority with respect to the establishment where service is or would be performed; or (B) in case the service is or would be performed with respect to any product in which any corporation, partnership, or other person within paragraph (a)(1)(x)(A)(1) of this section has a contract or other financial interest.

(2) *Procedure.* All cases arising under this paragraph shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes set forth in §§1.130 through 1.151 of this title and the Supplemental Rules of Practice in part 50 of this chapter.

(b) *For miscellaneous reasons.* An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person, without a hearing by the official in charge of the appropriate office of grading, with the concurrence of the Director or Chief (1) for administrative reasons such as the

nonavailability of personnel to perform the service; (2) for the failure to pay for service; (3) in case the application or request relates to products which are not eligible for service under § 54.5 or which are unclean or are in an unclean establishment; (4) for other noncompliance with the conditions on which service is available as provided in the regulations, except matters covered by paragraph (a) of this section; or (5) in case the person is a partnership, corporation, or other person from whom the benefits of the service are currently being withheld under paragraph (a) of this section. Notice of such denial or withdrawal, and the reasons therefor, shall promptly be given to the person involved.

(c) *Filing of records.* The final orders in formal proceedings under paragraph (a) of this section to deny or withdraw the service under the regulations (except orders required for good cause to be held confidential and not cited as precedents) and other records in such proceedings (except those required for good cause to be held confidential) shall be filed with the Hearing Clerk and shall be available for inspection by persons having a proper interest therein.

[42 FR 53921, Oct. 4, 1977. Redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 50 FR 14366, Apr. 12, 1985; 52 FR 35683, Sept. 23, 1987; 60 FR 8464, Feb. 14, 1995]

§ 54.12 Financial interest of official grader.

No official grader shall grade or determine compliance of any products in which he or any of his relatives by blood or marriage is directly or indirectly financially interested.

§ 54.13 Accessibility and refrigeration of products; access to establishments.

(a) The applicant shall cause products, with respect to which service is requested, to be made easily accessible for examination and to be so placed, with adequate illuminating facilities, as to disclose their class, grade, other quality, and compliance. Supervisors of grading and other employees of the Department responsible for maintaining uniformity and accuracy of service under the regulations shall have access

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to all parts of establishments covered by approved applications for service under the regulations, for the purpose of examining all products in the establishments which have been or are to be graded or examined for compliance with specifications or which bear any marks of grade or compliance.

(b) Grading service will only be furnished for meat that a USDA grader determines is chilled so that grade factors are developed to the extent that a proper grade determination can be made in accordance with the official standards. To be eligible for grading, beef carcasses must be ribbed at least 10 minutes prior to being offered for grading. Meat that is presented in a frozen condition shall not be eligible for a grade determination. Meat of all eligible species shall be graded only in the establishment where the animal was slaughtered or initially chilled (except for veal and calf carcasses, which shall be graded only after the hide is removed and only in the establishment where such removal occurs). The Director may grant prior approval for grading at a location other than the establishment of slaughter or initial chill upon notification to the Division if the

Branch was unable to provide grading service in a timely manner and that the meat can be identified in conformance with the standards.

[42 FR 53921, Oct. 4, 1977, as amended at 45 FR 51762, Aug. 5, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 63 FR 72102, Dec. 31, 1998]

§ 54.14 Official certificates.

(a) Agricultural Products Certificate Form LS-5-3 (Figure 1) is the official certificate for products under the regulations. The official grader shall prepare, sign, and issue an Agricultural Products Certificate Form LS-5-3 covering products for which that grader determined final specification compliance. Where weight or count is verified, the grader shall initial in the block titled "Weights and Total Count Verified."

(b) Applicant Charges Certificate Form LS-5-5 (Figure 2) will be used to reduce paperwork for applicants assigned multiple graders. Assigned graders will complete one Form LS-5-5. Each grader will enter their code letters and signature in the appropriate location(s) to indicate certificate completion.